BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

JAIME ARENIVAS)
Claimant	
VS.	
) Docket No. 233,37
NATIONAL BEEF PACKING CO.)
Respondent)
AND	
WAUSAU INSURANCE COMPANIES	
Insurance Carrier)

ORDER

Claimant appeals from a decision entered by Administrative Law Judge Pamela J. Fuller on November 8, 1999.

APPEARANCES

Lawrence M. Gurney of Wichita, Kansas, appeared on behalf of claimant. Shirla R. McQueen of Liberal, Kansas, appeared on behalf of respondent and its insurance carrier.

RECORD AND STIPULATIONS

The Appeals Board has considered the record and adopted the stipulations listed in the Award.

ISSUES

The only issue on appeal is the nature and extent of claimant's disability. The Administrative Law Judge found claimant has a 5 percent permanent partial disability based on functional impairment. Claimant contends the Administrative Law Judge should have relied on the 10 percent rating by Dr. P. Brent Koprivica.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board concludes the decision by the Administrative Law Judge should be affirmed.

Claimant suffered a compensable low back injury on February 6, 1998. No claim is made for work disability. Two physicians provided functional impairment ratings. Dr. Murati diagnosed lumbosacral strain with right SI joint inflammation and rated the impairment as 5 percent of the whole body based on the AMA *Guides to the Evaluation of Permanent Impairment*, Fourth Edition. Dr. Murati's rating was based on DRE classification II. Dr. Koprivica acknowledged that the Fourth Edition favored the DRE classification method of rating for back injury but stated that in his opinion this understated the impairment. He added 5 percent for loss of range of motion to arrive at a total rating of 10 percent. The ALJ awarded benefits based on 5 percent disability. The Board agrees with and affirms the conclusion of the ALJ. The Board finds, based on the expert testimony, the 5 percent rating is based on the method preferred under the AMA *Guides*.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the decision entered by Administrative Law Judge Pamela J. Fuller on November 8, 1999, should be, and the same is hereby, affirmed.

Dated this day of Fel	oruary 2000.
	BOARD MEMBER
	BOARD MEMBER
	BOARD MEMBER

c: Lawrence M. Gurney, Wichita, KS Shirla McQueen, Liberal, KS Pamela J. Fuller, Administrative Law Judge Philip S. Harness, Director

IT IS SO ORDERED.